

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRIAN W,

Plaintiff,

v.

PREMERA BLUE CROSS OF  
WASHINGTON et al.,

Defendants.

CASE NO. C24-0154-KKE

ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANT’S  
MOTION TO AMEND THE CASE  
SCHEDULE

This matter comes before the Court on Defendant Premera Blue Cross Washington’s (“Premera”) motion to amend the case schedule. Dkt. No. 35. For the reasons set forth below, the motion is granted in part and denied in part.

**I. BACKGROUND**

Plaintiff sues Premera “to recover[] benefits under the terms of an employee benefit plan and [to] enforce[] Plaintiff’s rights under the terms of an employee benefit plan.” Dkt. No. 1 ¶ 2. On June 2, 2025, the Court granted the parties’ joint motion to amend the case schedule, setting a one-day bench trial for February 9, 2026, and entering the parties’ stipulated cross dispositive motion briefing schedule. Pursuant to that order, Premera’s opening summary judgment brief was due June 30, 2025, and all briefing on the cross motions would be complete on September 25, 2025. Dkt. No. 33.

1 On June 11, 2025, Premera emailed Plaintiff to request a copy of the “Heritage appeal” and  
2 exhibits, indicating they could not locate the relevant records. Dkt. No. 36-1 at 4. The “Heritage  
3 appeal” refers to the record of Premera’s earlier denial of Plaintiff’s claim for insurance coverage.  
4 See Dkt. No. 1 ¶ 47. On June 16, 2025, Premera again contacted Plaintiff and stated “Premera has  
5 located the Heritage appeal record” and sent 5,592 pages to Plaintiff encompassing said appeal.  
6 Dkt. No. 36-1 at 2–3. Plaintiff then discovered that Premera’s production did not include “six  
7 exhibits submitted during the appeal.” Dkt. No. 38 ¶ 6. Accordingly, on June 23, 2025, Plaintiff  
8 produced “a full complete version of the Heritage appeal” to Premera which “included the same  
9 19 exhibits already in Premera’s Heritage production to plaintiff as part of this litigation, plus the  
10 additional, missing six exhibits.” *Id.* ¶¶ 6–7. Plaintiff states that these same documents were  
11 previously provided to Premera in 2021 and 2022 as part of the claims process. *Id.* ¶ 7.

12 On June 24, 2025, Premera filed this motion to amend the case schedule arguing that on  
13 June 23, 2025, “Plaintiff produced 5,418 pages that Premera has no record of ever having before  
14 received.” Dkt. No. 35 at 1. Premera seeks to extend the deadline to file its opening summary  
15 judgment brief by sixty days, to September 1, 2025, and to move the trial date to April 9, 2026.  
16 *Id.* at 5. Plaintiff opposes the motion and requests the Court deny the motion or “amend the  
17 briefing schedule by at most 30 days, and that it maintain the current February 2026 ERISA trial  
18 date. Dkt. No. 37 at 2.

19 Premera claims that it “attempted to meet and confer with plaintiff[’s counsel] about this  
20 issue” but that Plaintiff did not respond. Dkt. No. 35 at 1. The emails on the docket show Premera  
21 contacted Plaintiff about the new documents the same day it filed its motion. Dkt. No. 36-1 at 2.

## II. ANALYSIS

A scheduling order may only be modified “for good cause[.]” Fed. R. Civ. P. 16(b)(4). “Rule 16(b)’s ‘good cause’ standard primarily considers the diligence of the party seeking the amendment.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).<sup>1</sup> And under this district’s local rules:

A motion for relief from a deadline should, whenever possible, be filed sufficiently in advance of the deadline to allow the court to rule on the motion prior to the deadline. Parties should not assume that the motion will be granted and must comply with the existing deadline unless the court orders otherwise.

If a true, unforeseen emergency exists that prevents a party from meeting a deadline, and the emergency arose too late to file a motion for relief from the deadline, the party should contact the adverse party, meet and confer regarding an extension, and file a stipulation and proposed order with the court. Alternatively, the parties may use the procedure for telephonic motions in LCR 7(i). It is expected that if a true emergency exists, the parties will stipulate to an extension.

Local Rules W.D. Wash. LCR 7(j).

Premiera was not diligent in seeking the “Heritage appeal” and “exhibits” 19 days before its opening summary judgment brief was due, especially when it had received the documents twice before. Dkt. No. 36-1 at 4. While Premiera was arguably diligent in filing the motion to amend the case schedule promptly upon receiving the allegedly new documents, it did not give Plaintiff adequate time to respond to Premiera’s attempt to meet and confer. According to Plaintiff, had Premiera conferred with Plaintiff, it could have avoided a disputed motion. Dkt. No. 37 at 6. Such a conference could have also allowed the parties to use the Court’s telephonic motion procedure under Rule 7(i). Premiera then violated the local rules by not meeting the existing deadline to file its opening summary judgment brief. LCR 7(j).

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<sup>1</sup> Premiera’s motion applies the legal standard for final pretrial orders under Federal Rule of Civil Procedure 16(e), not a scheduling order under 16(b)(4), which is the only order at issue here. *See* Dkt. No. 35 at 4, Dkt. No. 39 at 1.

### III. CONCLUSION

In light of the circumstances here, the need for complete briefing, Plaintiff's agreement to a brief extension if it does not impact the trial date, and the necessity for sufficient time between the end of dispositive motion briefing and trial, the Court GRANTS IN PART and DENIES IN PART Premera's motion (Dkt. No. 35), VACATES the current case schedule (Dkt. No. 33), and ORDERS the case schedule amended as follows:

Event	Date
BENCH TRIAL SET FOR 9:30 a.m. on	<b>February 9, 2026</b>
Length of trial	1 day
Defendant's Opening Summary Judgment Brief	July 30, 2025
Plaintiff's Opening Brief & Opposition	September 2, 2025
Defendant's Opposition & Reply	September 30, 2025
Plaintiff's Reply	October 28, 2025
Settlement conference, if mediation has been requested by the parties per LCR 39.1, held no later than	October 30, 2025
Agreed LCR 16.1 Pretrial Order due, including exhibit list with completed authenticity, admissibility, and objections fields	January 19, 2026
Trial briefs, joint brief on motions in limine, preliminary proposed findings of fact and conclusions of law, and deposition designations due	January 26, 2026

Dated this 8th day of July, 2025.



Kymberly K. Evanson  
United States District Judge